

STATE OF CALIFORNIA

DEPARTMENT OF INSURANCE

In the Matter of: Proposed adoption of the Insurance Commissioner's regulations pertaining to pure premium rates for workers' compensation insurance, the Experience Rating Plan and the Uniform Statistical Reporting Plan to be effective on July 1, 2003

FILE NUMBER RH-03028607

DECISION

The continuing dramatic increase in the claims cost drivers (pure premium rates) must be a wake up call to the California Legislature. Without legislation stopping the escalating costs, the past increases together with the increase approved in this decision and those certain to occur in the future will quickly lead to meltdown of the workers' compensation system. Already 27 workers' compensation companies have gone into insolvency. State Fund is in a weak financial position, and every employer (public and private) in the State is paying in increased premiums what amounts to a \$10 billion new tax on their wages. The situation is intolerable and must be addressed with immediate, quantifiable, real legislation that contains the cost drivers that are creating the cost escalator that is so well described in the accompanying decision.

Insurance law requires that the licensed rating organization analyze past cost trends and report to the Insurance Commissioner its advice on the pure premium rates necessary to pay for the anticipated claims that will occur in the next year, or in the case of an interim filing like this one, in the next six months. The commissioner is required to conduct a hearing on the proposed rate increase and then render a decision on the proposal. This decision then becomes an advisory rate increase or decrease for the workers' compensation insurance companies. Therefore, in accordance with the law, I have reduced the WCIRB's proposed advisory pure premium rate from 10.9% to 7.2% for workers' compensation insurance in the second half of 2003.

The Insurance Commissioner does not set the workers' compensation rates. Insurance companies are allowed by law to set any adequate rate they desire.

It is clear that high workers' compensation rates are a very serious burden on employers, large and small. The destructive increases occur because the underlying costs of workers' compensation in California, particularly the costs of medical care, are increasing at an alarming rate. The cost of workers' compensation insurance, when calculated as a percentage of payroll, makes California the most costly state in the nation. At the same time, benefits to injured workers are among the bottom third of states.

We must reform our workers' compensation system by reducing unnecessary medical, legal and indemnity costs, improving claims handling, and ratcheting up the fight against fraud. I have been working closely with the Legislature and the Governor to change the laws that perpetuate our wasteful system. Also, I have reallocated the resources of the Department of Insurance to target those parts of the system where I can make a difference, including improving workers' compensation claims handling and targeting the fight against fraud to get the greatest results.

I have received some thoughtful letters from legislators in both the State Senate and Assembly as well as from private businesses requesting that I reject the increase in rates proposed by the WCIRB. However, my decision in this matter must be based on actual costs in the system and the actuarial science that describes the cost trends. The Department of Insurance actuaries have reviewed the data that was prepared by the WCIRB and their conclusion is that the loss costs and loss adjustment expenses for the insurance industry will increase, on average, by 7.2% for the second half of 2003. I find no credible argument to the contrary and therefore,

I hereby adopt the attached Proposed Decision and Proposed Order of Hearing Officer Larry C. White as my Decision in the above-entitled matter.

IT IS SO ORDERED THIS 6th DAY OF JUNE, 2003

JOHN GARAMENDI
Insurance Commissioner